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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,807	09/22/2003	Rodney Boyd	1.912.4	2168

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EXAMINER	
LAMB, BRENDA A	

ART UNIT	PAPER NUMBER
1734	

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
10/667,807	Boyd
Examiner	**Group Art Unit**
LAMB	1734

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☑ Claim(s) 1 - 6 is/are pending in the application.

Of the above claim(s) 4 - 6 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☑ Claim(s) 1 - 3 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☑ Notice of Reference(s) Cited, PTO-892

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Interview Summary, PTO-413

☐ Notice of Informal Patent Application, PTO-152

☐ Other _____

Office Action Summary

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-3, drawn to apparatus, classified in class 118, subclass 423.

II. Claims 4-6, drawn to method, classified in class 427, subclass 433.

The inventions are distinct, each from the other because:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as hot dip galvanizing of a ceramic component.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation between Examiner David Turocy and Attorney Henry Naylor on August 5, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-3. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4-6 withdrawn from further

consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 is confusing. It is unclear what "the present invention" encompasses or how it relates to the system for hot-dip galvanizing metal components.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rouquie.

Rouquie teaches, as shown in Fig. 1, for hot-dip galvanizing metal components, the system comprising: (a) a lifting device 5 detachably attached to a lifting bow 1 by an attaching means; (b) a lifting bow detachably attached to the lifting device, the lifting bow having a first face, a second face, a top section, a bottom section, and two side sections, wherein the bottom section is substantially broader than the top section, and wherein the top section contains a cutout for receiving the attaching means of the lifting device, and wherein the bottom section having a plurality of means for hanging metal components to be galvanized, and a tank 10 containing a molten metal galvanizing composition, the tank as depicted in Fig. 1 being of sufficient size to receive a sufficient

amount of molten galvanizing composition to submerge at least a portion of the bottom section of the lifting bow into the molten metal galvanizing composition. Rouquie fails to teach the lifting bow is comprised of plate metal of at least about 0.25 inches thick. However, it would have been an obvious to one having ordinary skill in the art at the time of the invention was made to construct the Rouquie lifting device from a metal, since it has been held to be within the ordinary skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Further, it would have been an obvious matter of design choice to construct the Rouquie lifting bow of at least about 0.25 inches thick, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose 105 USPQ 237 (CCPA 1955). Alternatively, it would have been prima facie obvious to construct the lifting bow such that it is has a thickness of about 0.25 inches for the obvious advantage of increasing the rigidity of the lifting bow thereby increasing the structural stability of the lifting bow. With respect to claim 3, Rouquie shows hanging means attached to the bottom section of the lifting bow. Rouquie fails to teach the hanging means are permanently attached to the bottom section thereby reading on a lifting bow with integral hanging means. However, it would have been obvious to one having ordinary skill of the art at the time the invention was made to permanently attached or make integral via permanent attachment of the hanging means with the lifting bow since it has been held that forming in one piece an

article which has been formerly been formed in the art. Howard v. Detroit Stove Works, 150 U.S. 164 (1893).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rouquie in view of Hines and Holman.

Rouquie is applied for the reasons noted above. Rouquie fails to teach the plurality of hanging means is cutouts along the bottom section of the lifting bow. However, it would have been obvious to modify the Rouquie lifting bow in the Rouquie system by providing as the hanging means a plurality of cutouts along the bottom section of the lifting bow such as taught by Holman and Hines obviously dependent on the configuration of the metal components for the obvious advantage of simplicity in design.

Any inquiry concerning this communication should be directed to Brenda A. Lamb at telephone number (571) 272-1231. The examiner can normally be reached on Monday and Wednesday thru Friday with alternate Tuesdays off.

B.A. Lamb/dh
February 1, 2005

Brenda A. Lamb

BRENDA A. LAMB
PRIMARY EXAMINER